



# Oregon

Theodore R. Kulongoski, Governor



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January 26, 2004

Stacy Charboneau  
U.S. Department of Energy  
Richland Operations Office  
P.O. Box 550, MS A4-79  
Richland, WA 99352

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**EDMC**

Subject: Review of the "Engineering Evaluation / Cost Analysis (EE/CA) for the Contaminated Waste Process Facility, Building 232-Z," DOE/RL-2003-29, Rev. 2, Dec. 11, 2003. 60910

Dear Ms. Charboneau:

We appreciate the opportunity to provide comments on the proposed action.

We believe the EE/CA provides a reasonable path forward for the 232-Z facility. You have proposed alternative 2 (dismantle and remove the building and dispose of the debris and other waste at the Environmental Restoration Disposal Facility (ERDF)). We believe that alternative 3 (dismantle and remove the building and dispose of the debris and other waste at the low-level burial grounds (LLBG)) may be more appropriate, depending upon the regulation under which the wastes are generated. The projected cost difference between the two alternatives is less than 2 percent. This is an insignificant difference.

#### LLBG versus ERDF

ERDF may be acceptable for disposal of the wastes generated by the proposed action provided:

- 1) the wastes are generated under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), with the Resource Conservation and Recovery Act (RCRA) as an applicable or relevant and appropriate requirement (ARAR), and
- 2) the wastes are properly treated to comply with the land disposal restrictions of RCRA.

However, if the wastes are generated as RCRA wastes, the mixed low-level waste and hazardous wastes must be disposed in facilities licensed under RCRA. ERDF is not a RCRA licensed facility, and is ineligible to receive RCRA waste. ERDF lacks vadose zone monitoring that could detect early failures of the disposal site. ERDF also lacks regulatory oversight by the State of Washington. The mixed waste trenches in the LLBG are licensed for this use.

On page 18 you note that "... the LLBG are "offsite" disposal facilities under the CERCLA," and argue that this is an additional barrier to their use. We disagree. Though Hanford was

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designated as consisting of four CBRCLA sites (the 100, 200, 300 and 1100 areas), ERDF is routinely used for all Hanford CBRCLA waste without concern for this distinction. Similarly, the LLBG are fully contained within the 200 area and are designed and intended for use in disposing of Hanford mixed waste from the 200 areas, and are licensed for this purpose. There should be no impediment or barrier to their use for this waste.

#### Waste definitions

On page 17, you cite the Atomic Energy Act as authority for these actions. You further note that DOE Orders are not promulgated, and therefore are not ARARs under CERCLA. We agree. On page 10 you cite DOE Order 5820.2A (since rescinded and superseded by DOE Order 435.1) as governing the definition of transuranic (TRU) waste. This appears to be in error.

It is not entirely clear to us what regulation currently defines TRU in this context. The Atomic Energy Act appears to be the governing law for defense origin TRU waste. WIPP is restricted to accepting defense origin TRU waste containing more than 100 nanocuries per gram. This leaves open the question about what to do with project waste containing more than 10 and less than 100 nanocuries per gram of transuranics.

#### Terminology

The Tri-Parties have most often referred to mixtures of hazardous wastes and low-level radioactive wastes as "mixed low-level wastes (MLLW)." The EE/CA selects instead the term "low-level mixed waste (LLMW)." The choice of term used at Hanford should be standardized to avoid confusing the public.

If you have questions regarding our comments, please contact Dirk Dunning at (503) 378-3187.

Sincerely,



Ken Niles  
Assistant Director

Cc:

Nicholas Ceto, EPA Program Manager  
Michael A. Wilson, Ecology Nuclear Waste Program Manager  
Todd Martin, Chair, Hanford Advisory Board  
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